

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-0043-MWD-E TCEQ ID: RN101613685 CASE NO.: 36999
RESPONDENT NAME: CITY OF GATESVILLE

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 1,200 feet west of where State Highway 36 crosses Stillhouse Branch, Coryell County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired June 1, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney: Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Mr. Tom Jecha, Air Enforcement Section, MC 128, (512) 236-2576</p> <p style="margin-left: 20px;">TCEQ Regional Contact: Mr. Frank Burleson, Waco Regional Office, MC R-9, (254) 761-3001</p> <p style="margin-left: 20px;">Respondent: The Honorable David Byrom, Mayor, City of Gatesville, 110 North 8th Street, Gatesville, Texas 76528</p> <p style="margin-left: 20px;">Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 22, 2008</p> <p>Date of NOE Relating to this Case: December 19, 2008</p> <p>Background Facts: The EDPRP was filed on February 12, 2009. An Agreed Order was signed on March 10, 2009.</p> <p>Current Compliance Status: No outstanding technical requirements.</p> <p>MWD: Failed to prevent an unauthorized discharge of wastewater into or adjacent to water in the state [TEX. WATER CODE § 26.121(a); 30 TEX. ADMIN. CODE § 305.125(4) and TPDES Permit No. WQ0010176002, Permit Conditions No. 2.g]</p>	<p>Total Assessed: \$1,975</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid to General Revenue: \$1,975</p> <p>The Respondent paid the administrative penalty in full.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that Respondent cleaned the affected area as of October 22, 2008.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	5-Jan-2009	Screening	9-Jan-2009	EPA Due	
	PCW	12-Jan-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Gatesville
Reg. Ent. Ref. No.	RN101613685
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36999	No. of Violations	1
Docket No.	2009-0043-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Thomas Jecha
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$2,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 4.0% Enhancement Subtotals 2, 3, & 7 **\$100**

Notes Enhancement for one NOV with same or similar violations and two NOVs with dissimilar violations at this facility within the past five years.

Culpability No 0.0% Enhancement Subtotal 4 **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 **\$625**

Economic Benefit 0.0% Enhancement* Subtotal 6 **\$0**

Total EB Amounts \$4
Approx. Cost of Compliance \$10,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal **\$1,975**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$1,975**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$1,975**

DEFERRAL 0.0% Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$1,975**

Screening Date 9-Jan-2009

Docket No. 2009-0043-MWD-E

PCW

Respondent City of Gatesville

Policy Revision 2 (September 2002)

Case ID No. 36999

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613685

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	Yes	-5%

Adjustment Percentage (Subtotal 2) 4%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations and two NOVs with dissimilar violations at this facility within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 4%

Screening Date 9-Jan-2009		Docket No. 2009-0043-MWD-E		PCW																	
Respondent City of Gatesville		<small>Policy Revision 2 (September 2002)</small>																			
Case ID No. 36999		<small>PCW Revision October 30, 2008</small>																			
Reg. Ent. Reference No. RN101613685																					
Media [Statute] Water Quality																					
Enf. Coordinator Thomas Jecha																					
Violation Number 1																					
Rule Cite(s)		Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(4), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010176002, Permit Conditions No. 2.g.																			
Violation Description		Failed to prevent an unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, an electrical fire in a control panel disabled two main pumps at the wastewater treatment plant, allowing approximately 25,000 gallons of raw sewage to discharge from two manholes into Stillhouse Branch Creek approximately 500 feet northwest of where State Highway 36 crosses the creek. Floating sewage solids and elevated levels of bacteria were documented in the creek at the point of discharge ("POD") as well as downstream of the POD. (see attached table).																			
Base Penalty				\$10,000																	
>> Environmental, Property and Human Health Matrix																					
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td style="text-align: center;">x</td> <td></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td></td> <td></td> <td></td> </tr> </table>					Harm			Release	Major	Moderate	Minor	Actual		x		Potential				Percent 25%
		Harm																			
	Release	Major	Moderate	Minor																	
Actual		x																			
Potential																					
>> Programmatic Matrix																					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>					Falsification	Major	Moderate	Minor						Percent 0%						
	Falsification	Major	Moderate	Minor																	
Matrix Notes	Human health and the environment has been exposed to significant amounts of pollutants as a result of the violation.																				
Adjustment				\$7,500																	
				\$2,500																	
Violation Events																					
Number of Violation Events 1		Number of violation days 3																			
mark only one with an x	daily	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td></td></tr> <tr><td></td></tr> <tr><td style="text-align: center;">x</td></tr> <tr><td></td></tr> <tr><td></td></tr> <tr><td></td></tr> <tr><td></td></tr> </table>					x					Violation Base Penalty \$2,500									
	x																				
weekly																					
monthly																					
quarterly																					
semiannual																					
annual																					
single event																					
One monthly event is recommended from the date of the discharge on October 21, 2008 until clean-up was completed on October 24, 2008.																					
Good Faith Efforts to Comply																					
		25.0% Reduction		\$625																	
		Before NOV NOV to EDPRP/Settlement Offer																			
Extraordinary																					
Ordinary	x																				
N/A		(mark with x)																			
Notes	Compliance was achieved on October 24, 2008.																				
Violation Subtotal				\$1,875																	
Economic Benefit (EB) for this violation																					
Estimated EB Amount		\$4		Violation Final Penalty Total \$1,975																	
This violation Final Assessed Penalty (adjusted for limits)				\$1,975																	

CITY OF GATESVILLE
Docket No. 2009-0043-MWD-E
Violation No. 1

**Analysis Results for Water Samples Collected from Stillhouse Branch Creek on
October 22, 2008**

Sample Location (Relative to POD*)	E. coli per 100 Milliliters	Ammonia- Nitrogen (mg/L**)	Nitrate (mg/L)	Total Phosphorus (mg/L)	Total Kjeldahl Nitrogen (mg/L)	Dissolved Oxygen (mg/L)
500 Feet Upstream	4,100	0.1	1.98	1.42	6.97	4.31
at POD	59,800	<0.05	1.19	0.38	1.93	1.03
225 Feet Downstream	98,500	0.12	0.65	4.79	31.9	1.90

*POD = Point of Discharge **mg/L = milligrams per liter

Economic Benefit Worksheet

Respondent City of Gatesville
Case ID No. 36999
Reg. Ent. Reference No. RN101613685
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	21-Oct-2008	24-Oct-2008	0.01	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to repair damaged electrical controls, remove solids from the stream and affected areas, and clean and disinfect the area with calcium hypochlorite. The date required is the date of the unauthorized discharge and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$4

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600702633	City of Gatesville	Classification: AVERAGE	Rating: 0.96
Regulated Entity:	RN101613685	STILLHOUSE BRANCH	Classification: AVERAGE	Site Rating: 0.14
ID Number(s):	WASTEWATER	PERMIT	WQ0010176002	
	WASTEWATER	PERMIT	TPDES0111791	
	WASTEWATER	PERMIT	TX0111791	
	WASTEWATER LICENSING	LICENSE	WQ0010176002	
Location:	On Stillhouse Branch, 1,200 ft W of where St Hwy 36 crossed Stillhouse Branch in Coryell Co.			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	January 07, 2009			
Agency Decision Requiring Compliance	Enforcement			
Compliance Period:	January 07, 2004 to January 07, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Thomas Jecha	Phone:	239 - 2576	

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	02/09/2004	(324462)
2	03/11/2004	(324465)
3	04/14/2004	(324466)
4	05/11/2004	(324468)
5	06/14/2004	(324470)
6	06/25/2004	(269230)
7	07/09/2004	(324472)
8	09/13/2004	(365175)
9	09/16/2004	(365174)
10	10/15/2004	(365176)
11	12/06/2004	(365177)
12	12/13/2004	(389139)
13	12/14/2004	(389140)
14	02/11/2005	(389135)
15	03/07/2005	(389136)

16	03/14/2005	(389137)
17	03/14/2005	(389138)
18	05/09/2005	(426701)
19	06/13/2005	(426702)
20	08/29/2005	(446930)
21	08/29/2005	(446931)
22	09/02/2005	(446928)
23	09/12/2005	(446929)
24	11/07/2005	(490876)
25	12/14/2005	(490877)
26	02/13/2006	(490873)
27	03/14/2006	(490874)
28	04/10/2006	(490875)
29	05/10/2006	(505525)
30	05/18/2006	(461142)
31	05/31/2006	(457772)
32	06/14/2006	(505526)
33	07/13/2006	(505527)
34	07/21/2006	(482008)
35	08/07/2006	(527800)
36	10/04/2006	(531063)
37	10/04/2006	(551430)
38	10/13/2006	(551431)
39	11/13/2006	(551432)
40	12/12/2006	(551433)
41	01/09/2007	(551434)
42	02/12/2007	(588330)
43	03/13/2007	(588331)
44	04/09/2007	(588332)
45	05/10/2007	(588333)
46	06/05/2007	(588336)
47	06/15/2007	(588334)
48	07/11/2007	(588335)
49	08/14/2007	(608596)
50	09/11/2007	(608597)
51	10/11/2007	(629530)
52	11/16/2007	(629531)
53	12/10/2007	(629532)
54	02/12/2008	(676744)
55	03/11/2008	(676745)
56	04/04/2008	(639693)
57	04/09/2008	(695306)
58	05/13/2008	(695307)
59	06/05/2008	(695309)
60	06/09/2008	(695308)
61	08/11/2008	(716834)
62	09/11/2008	(716835)
63	12/19/2008	(706255)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 06/04/2004 (269230)

CN600702633

Self NO
Report?

Classification Minor
:

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0010176-002 PERMIT

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained

Self NO Classification Minor
Report? :

Citation: 30 TAC Chapter 317 317.6(b)(1)(C)
WQ0010176-002 PERMIT

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self NO Classification Minor
Report? :

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0010176-002 PERMIT

Description: Failure by the permittee to ensure that all systems of treatment, collection, and disposal are properly operated and maintained.

Date: 05/18/2006 (461142) CN600702633

Self Report? NO Classification Moderate
:

Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
Permit Conditions, No. 2g Pg. 7 PERMIT
TWC Chapter 26 26.121(a)(1)

Description: Failure by the permittee to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.

Date: 10/04/2006 (531063)

Self Report? NO Classification Moderate
:

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF GATESVILLE,
RN101613685**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-0043-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Gatesville ("Gatesville") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Gatesville, appear before the Commission and together stipulate that:

1. Gatesville owns and operates a wastewater treatment plant located 1,200 feet west of where State Highway 36 crosses Stillhouse Branch in Coryell County, Texas (the "Plant").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Gatesville agree that the Commission has jurisdiction to enter this Agreed Order, and that Gatesville is subject to the Commission's jurisdiction.
4. Gatesville received notice of the violations alleged in Section II ("Allegations") on or about December 24, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Gatesville of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of one thousand nine hundred seventy-five dollars (\$1,975.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Gatesville paid one thousand nine hundred seventy-five dollars (\$1,975.00) of the administrative penalty.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Gatesville agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Gatesville cleaned the affected area as of October 22, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Gatesville has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

During an investigation conducted on October 22, 2008, a TCEQ Waco Regional Office investigator documented that Gatesville violated TEX. WATER CODE § 26.121(a); 30 TEX. ADMIN. CODE § 305.125(4) and TPDES Permit No. WQ0010176002, Permit Conditions No. 2.g., by failing to prevent an unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, an electrical fire in a control panel disabled two main pumps at the wastewater treatment plant, allowing approximately 25,000 gallons of raw sewage to discharge from two manholes into Stillhouse Branch Creek approximately 500 feet northwest of where State Highway 36 crosses the creek. Floating sewage solids and elevated levels of bacteria were documented in the creek at the point of discharge ("POD") as well as downstream of the POD (see table below).

CITY OF GATESVILLE Docket No. 2009-0043-MWD-E Violation No. 1 Analysis Results for Water Samples Collected from Stillhouse Branch Creek on October 22, 2008						
Sample Location (Relative to POD*)	E. coli per 100 Milliliters	Ammonia- Nitrogen (mg/L**)	Nitrate (mg/L)	Total Phosphorus (mg/L)	Total Kjeldahl Nitrogen (mg/L)	Dissolved Oxygen (mg/L)
500 Feet Upstream	4,100	0.1	1.98	1.42	6.97	4.31
at POD	59,800	<0.05	1.19	0.38	1.93	1.03
225 Feet Downstream	98,500	0.12	0.65	4.79	31.9	1.90

*POD = Point of Discharge **mg/L = milligrams per liter

III. DENIALS

Gatesville generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Gatesville pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Gatesville's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Gatesville, Docket No. 2009-0043-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

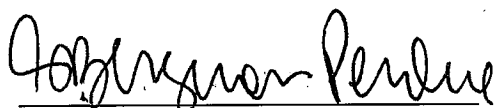
2. The provisions of this Agreed Order shall apply to and be binding upon Gatesville. Gatesville is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.

3. This Agreed Order, issued by the Commission, shall not be admissible against Gatesville in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Gatesville, or three days after the date on which the Commission mails notice of the Order to Gatesville, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

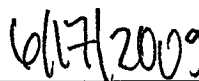
SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director



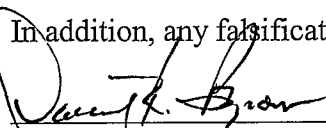
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

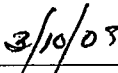
I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Gatesville's compliance history;
- Greater scrutiny of any permit applications submitted by Gatesville;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Gatesville;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Gatesville; and
- TCEQ seeking other relief as authorized by law.

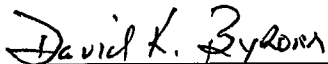
In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

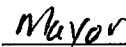


Date



Name (Printed or typed)

Authorized representative of the
City of Gatesville



Title